

Commodity Credit Corporation, USDA

§ 1479.111

(3) Sustained a loss in excess of 35 percent of the value for value loss crops.

(b) Calculation of benefits under this part shall not include losses:

(1) That are the result of poor management decisions, poor farming practices, or drifting herbicides as determined by the county committee on a case-by-case basis;

(2) That are the result of the failure of the producer to re-seed or replant to the same crop in the county where it is customary to re-seed or replant after a loss;

(3) That are not as a result of a damaging weather or a weather related condition;

(4) To crops not intended for harvest in crop year 2003, 2004, or 2005;

(5) To losses of by-products resulting from processing or harvesting a crop, such as cottonseed, peanut shells, wheat or oat straw;

(6) To home gardens;

(7) That are a result of water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected for the containment or release of the water; or

(8) If losses could be attributed to conditions occurring outside of the applicable crop year growing season.

(c) Calculation of benefits under this part for ornamental nursery stock shall not include losses:

(1) Caused by a failure of power supply or brownouts;

(2) Caused by the inability to market nursery stock as a result of quarantine, boycott, or refusal of a buyer to accept production;

(3) Caused by fire;

(4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock that have not been controlled; or

(5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this part for honey where the honey production by colonies or bees was diminished shall not include losses:

(1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;

(2) Resulting from improper storage of honey;

(3) To honey production because of bee feeding;

(4) Caused by the application of chemicals;

(5) Caused by theft, fire, or vandalism;

(6) Caused by the movement of bees by the producer or any other person;

(7) Due to disease or pest infestation of the colonies; or

(e) Loss calculations shall take into account other conditions and adjustments provided for in this part.

§ 1479.111 Rates and yields; calculating payments.

(a)(1) Payments made under this part to a producer for a loss on a unit with respect to yield based crops are determined by multiplying the payment rate established for the crop by CCC, times the loss of production which exceeds 35 percent of the expected production, as determined by CCC, of the unit.

(2) Payments made under this part to a producer for a loss on a unit with respect to value-based crops are determined by multiplying the payment rate established for the crop by CCC times the loss of value that exceeds 35 percent of the expected production value, as determined by CCC, of the unit.

(3) Payments made under this part may be adjusted by CCC to reflect losses due to quality factors adversely affected by a disaster. For FSA price support loan commodities, production to count may be reduced using the schedule of premiums and discounts for FSA commodity loans. Additional quality loss adjustments may be made for single market crops, using a 20 percent quality loss threshold. The quality loss threshold may be determined by multiplying: 65 percent of the affected quantity, times 65 percent of the result of subtracting: the value of the crop due to the effects of the disaster, as determined by CCC, from the value of the crop if it had not been affected by the disaster, as determined by CCC. Quality adjustments for multiple market crops sold to a lower priced market

§ 1479.112

7 CFR Ch. XIV (1-1-06 Edition)

as a result of poor quality will be determined by using the difference between the average market price for the intended use and the average market price for the actual use, as determined by CCC.

(b) Payment rates for 2003, 2004, or 2005 year crop losses shall be:

(1) 65 percent of the maximum established RMA price for insured crops;

(2) 65 percent of the State average price for non-insurable crops; and

(3) 60 percent of the maximum established RMA price for uninsured crops.

(c) Except as provided elsewhere in this part, disaster benefits under this part for losses to crops shall be paid in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(d) Separate payment rates and yields for the same crop may be established by the county committee as authorized by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown.

(e) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

(f) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced.

(g) When calculating a payment for a unit loss:

(1) An unharvested payment factor shall be applied to crop acreage planted but not harvested;

(2) A prevented planting factor shall be applied to any prevented planted acreage eligible for payment; and

(3) Unharvested payment factors may be adjusted if costs normally associ-

ated with growing the crop are not incurred.

§ 1479.112 Production losses, producer responsibility.

(a) Where available and determined accurate, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, or if the FSA county committee determines the RMA loss records are inaccurate or incomplete, or if the FSA county committee makes inquiry, producers are responsible for:

(1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;

(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production;

(4) Providing the information in a manner that can be easily understood by the county committee; and

(5) Providing supporting documentation if the county committee has reason to question the disaster event or that all production has been accounted for.

(c) In determining production under this section, the producer must supply verifiable or reliable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, production records include: Commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, production records for these purposes include: Truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.